

UNITED STATES
FOREIGN INTELLIGENCE SURVEILLANCE COURT
WASHINGTON, D.C.

U.S. FOREIGN
INTELLIGENCE
SURVEILLANCE COURT

2013 OCT -4 PM 5:03

LEEANN FLYNN HALL
CLERK OF COURT

IN RE: DIRECTIVES PURSUANT TO SECTION)
105B OF THE FOREIGN INTELLIGENCE)
SURVEILLANCE ACT)
_____)

Docket No. 105B(g) 07-01

MOTION FOR STAY OF PROCEEDINGS DUE TO LAPSE OF APPROPRIATIONS

JOHN P. CARLIN
Acting Assistant Attorney General
for National Security

J. BRADFORD WIEGMANN
Deputy Assistant Attorney General

TASHINA GAUHAR
Deputy Assistant Attorney General

JEFFREY M. SMITH
NICHOLAS J. PATTERSON
U.S. Department of Justice
National Security Division
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Phone: (202) 514-5600
Fax: (202) 514-8053

Attorneys for the United States of America

The United States hereby moves for a stay of proceedings in this matter including, in particular, a stay of one upcoming deadline, due to a lapse in Government appropriations. In support thereof, the Government states as follows:

1. At the end of the day on September 30, 2013, the appropriations act that had been funding the Department of Justice ("Department") expired and annual appropriations to the Department lapsed. The Department does not know when funding will be restored by Congress.

2. Absent an appropriation, Department of Justice attorneys and employees are prohibited from working, even on a voluntary basis, except in very limited circumstances, including "emergencies involving the safety of human life or the protection of property," 31 U.S.C. § 1342.

3. There is one deadline during the month of October that the Government proposed in this case: a status report on the Government's review of documents on October 25, 2013. In light of the lapse of appropriations, the Government requests a stay of this deadline and all other proceedings until Congress has restored appropriations to the Department.

4. If this motion for a stay is granted, undersigned counsel proposes to notify the Court within five days after Congress has appropriated funds for the Department. The Government proposes that, at that point in time, this deadline can be re-set as appropriate under the circumstances. The Government believes that the October deadline identified above should be extended by a time period at least equal to the duration of the lapse in appropriations, or perhaps by longer if future circumstances warrant. While the Government cannot predict the ultimate impact the lapse in appropriations will have, at this point the Government does not anticipate that any other present deadlines would need to be extended.

5. On October 4, undersigned counsel for the Government contacted the Provider's counsel in order to ascertain the Provider's position regarding this motion. The Provider takes no position on this issue.

Therefore, although we greatly regret any disruption caused to the Court and the other party, the Government hereby moves for a stay of proceedings in this case including, in particular, the October deadline outlined above, until Department of Justice attorneys are permitted to resume their usual civil litigation functions.

October 4, 2013

Respectfully submitted,

JOHN P. CARLIN
Acting Assistant Attorney General
for National Security

J. BRADFORD WIEGMANN
Deputy Assistant Attorney General

TASHINA GAUHAR
Deputy Assistant Attorney General

/s/ Nicholas J. Patterson
JEFFREY M. SMITH
NICHOLAS J. PATTERSON
U.S. Department of Justice
National Security Division
950 Pennsylvania Ave., N.W.
Washington, D.C. 20530
Phone: (202) 514-5600
Fax: (202) 514-8053

Attorneys for the United States of America

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the United States' Motion for Stay of Proceedings Due to Lapse in Appropriations was served by the Government via Federal Express overnight delivery on this 4th day of October, 2013,
addressed to:

Marc J. Zwillinger
Jacob A. Sommer
ZwillGen PLLC
1705 N Street, NW
Washington, DC 20036

/s/ Nicholas J. Patterson
Nicholas J. Patterson